

DEPARTMENT FOR MH/MR SERVICES

SUBJECT: ABUSE, NEGLECT OR EXPLOITATION OF RESIDENTS

POLICY: Abuse, neglect or exploitation of residents is prohibited and is subject to the Department's 'Zero Tolerance'. Dismissal will be requested for any individual who has been deemed to have committed an act of abuse, neglect or exploitation that is willful, intentional or reckless.

Major disciplinary action, up to and including dismissal, will be requested against any employee who fails to report, or is late in reporting, an act of abuse, neglect or exploitation.

The "seven key components" of systemic approach to prevent abuse and neglect will serve as the facility's guiding principles in all matters involving the prevention of abuse and neglect. These key components are listed and defined as follows:

1. **PREVENT:** In addition to the implementation of this abuse prevention policy, the facility will review specific incidents for "lessons learned" which will form a feedback loop for necessary policy changes. Said review and analyses therefrom will be organized to assure that individuals are free from threat to their health and safety.
2. **SCREEN:** The facility will assure that there is a criminal background check provided on each individual prior to appointment to prohibit the employment of an individual with a conviction or prior employment history of child or client abuse, neglect, or mistreatment. Where required, there will also be a check from the Nurse Aide Abuse Registry.
3. **IDENTIFY:** The facility will identify patterns of incidents or other evidence of physical, verbal, sexual or psychological abuse or punishment posing a serious and immediate threat to individuals.
4. **TRAIN:** The facility will assure, through its new employee orientation program, and through on-going training, that all employees are provided with information regarding abuse, neglect and related reporting requirements, including prevention, intervention, and detection.
5. **PROTECT:** The facility will prevent further potential abuse while an investigation of any allegation of abuse or neglect is in progress by immediately removing accused staff from direct care responsibilities. Should the individual not be in a direct care position, steps will be taken to assure that the individual not be in contact with residents.

6. INVESTIGATE: The facility will investigate all serious and/or obvious injuries of unknown origin and allegations of mistreatment, neglect, or abuse. All investigations will be completed in a timely, objective, and thorough manner.
7. REPORT/RESPOND: The facility will assure that all investigations are reported in a timely manner, in accordance with applicable local, state, or federal laws.

DEFINITIONS:

1. ABUSE: Acting in a manner that willfully, intentionally, or recklessly causes pain, physical, or emotional injury.
 - a. Physical Abuse: Includes, but is not limited to, kicking, striking, slapping, shaking, choking, hitting of others, applying restraints or time-out without proper authorization or reason, applying inappropriate physical techniques, etc.
 - b. Emotional Abuse: Any use of verbal or other communication to threaten an individual with physical harm, or to ridicule, curse at, intimidate, humiliate, or to degrade an individual.
 - c. Sexual Abuse: Sexual abuse is defined as sexual contact between a staff person and a resident, and includes any touching of the sexual or other intimate parts of a person done for the purpose of gratifying the sexual desire of either party. Sexual abuse may also include staff negligently allowing intimate sexual contact between residents.
2. NEGLECT: Any failure to act which caused or could have caused physical or emotional injury to an individual. Neglect includes, but is not limited to, failure to obtain or provide medical treatment or leaving residents inappropriately attended by staff, or failure to meet basic needs.
3. EXPLOITATION: The illegal or improper act or process of using a person served, or the resources of a person served, for monetary or personal benefit, gain, or gratification.

PROCEDURES:

1. Incident reports and forms must be completed per the Department's Incident Management procedure.
2. The Supervisor shall immediately notify medical personnel for assessment of the individual for possible injury.

3. During their regular duty hours, the social worker shall notify the family/guardian of the allegation and pending investigation. Each facility is responsible to outline a specific notification procedure during hours when the social worker is not on duty.
4. The Facility Director or designee shall initiate an internal investigation. The assigned investigator shall interview the alleged target, witnesses of the incident, and other individuals with possible knowledge of the alleged incident and shall obtain written statements. Once an internal investigation is completed, a final written report of the findings shall be submitted to the Commissioner's Office.
5. Staff suspected of abuse will be removed from direct care. This may include a request for Special Leave. The Facility Director, or designee, will make a determination to remove staff from direct care for failure to report abuse.

Procedure to be followed by Facility Director or designee in cases of alleged abuse or neglect:

- a. Determine, if the allegation is correct, whether the alleged perpetrator(s) will pose a danger to resident(s).

Examples of allegations that could pose danger to residents.

- 1) Allegation of physical abuse;
- 2) Allegation of willful neglect;
- 3) Reckless disregard for the health or safety of one or more residents, which may include failure to report first hand knowledge of abuse.

Examples of allegations that do not pose an immediate danger:

- 1) Agreeing to briefly watch a resident while assigned one-on-one to another resident;
 - 2) Briefly losing sight of a resident whose level of supervision is line of sight, due to an obstruction.
- b. If it is determined that the alleged perpetrator(s) would pose a danger, the Facility Director or designee will immediately reassign the alleged perpetrator out of direct care, or submit a request for Special Leave, pending the conclusion of the investigation. Should the perpetrator(s) not have been in direct care assignments, the Facility Director or designee will assign them in an area where there will be no contact with residents, if possible. Otherwise, the Facility Director or designee may submit a request for Special Leave.

6. When the internal investigation reveals that the allegation is substantiated, the Facility Director will request disciplinary action against the perpetrator(s) and/or the person(s) who failed to report the incident.
7. In cases when the investigation concludes that the alleged perpetrator(s) did not abuse, neglect or exploit the resident, but there is a substantiation that there was a case of poor work performance, failure to follow procedure, etc., the Facility Director or designee will immediately reassign them out of direct care until they have been properly trained or re-trained.
8. Personnel reassigned away from direct care due to an investigation of an alleged violation of this policy shall be considered by the Facility Director for return to direct care following an unsubstantiated determination by the facility's on-site internal investigation. Regulatory guidelines may prohibit the return of the employee to direct care at the end of the internal investigation.
9. Should an outside agency, i.e., the Cabinet for Families and Children and the Office of the Inspector General, substantiate abuse when the facility's internal investigation did not, the facility will take appropriate action.
10. Any staff member who witnesses, discovers, or who otherwise has knowledge of any incident of abuse, neglect, or exploitation shall report it per facility procedure.

APPROVED:

Kelly Ravier Durham, Acting Commissioner

Date

Effective: February 2004